

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF**

77-1331

674

UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT

-----X

TAHERA WEINSTEIN,

Defendant-Appellant

INDEX #77-1331

UNITED STATES OF AMERICA,

Respondent

-----X

DEFENDANT-APPELLANT'S BRIEF ON APPEAL

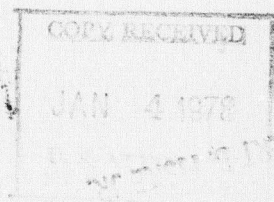
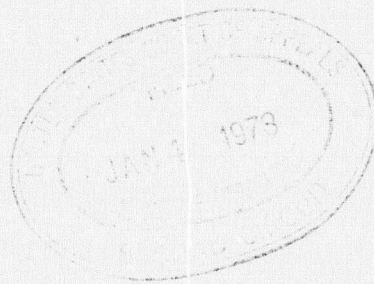
JOSEPH A. MILLIGAN
Attorney for Defendant-Appellant
1550 Deer Park Avenue
Deer Park, New York

TO: UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

ROBERT B. FISKE, JR., United States Attorney
Southern District of New York

PETER N. DUHAMEL, Assistant U. S. Attorney.

B
AS



UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT

-----X

TAHERA WEINSTEIN,

INDEX #77-1331

Defendant-Appellant

UNITED STATES OF AMERICA,

Respondent

-----X

DEFENDANT-APPELLANT'S BRIEF ON APPEAL

JOSEPH A. MILLIGAN
Attorney for Defendant-
Appellant
1550 Deer Park Avenue
Deer Park, New York
(516) 667-3060

TO: UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

ROBERT B. FISKE, JR., United States Attorney
Southern District of New York

PETER N. DUHAMEL, Assistant U. S. Attorney.

TABLE OF CONTENTS

Questions Presented.....	1
Statement.....	2
Point I.....	5
Point II.....	14
Conclusion.....	26

QUESTIONS PRESENTED

The questions presented on this appeal are two:

1. Was the defendant-appellant afforded her constitutional rights in accordance with the standards set down in Miranda v. Arizona, 384 U.S. 436 (1966) and therefore, under the Fifth Amendment of the United States Constitution?

2. Did the Court below err in its finding that a proceeding was pending in connection with the crime with which defendant-appellant was charged and ultimately convicted?

The answers to both questions must be resolved in the negative.

STATEMENT

1. Defendant-appellant received the sum of \$800.00 from an alien whose visa had expired, for the supposed purpose of assisting the alien in gaining legal alien status and for the supposed additional purpose of expediting the alien's receipt of legal alien status.

2. The defendant was indicted on three (3) separate counts (apparently because the \$800.00 was paid in three (3) separate payments totalling \$800.00) for violation of Title 18 U.S. Code, Section 1422 which reads as follows:

"Section 1422. Fees in naturalization proceedings
"Whoever knowingly demands, charges, solicits, collects, or receives, or agrees to charge, solicit, collect or receive any other or additional fees or moneys in proceedings relating to naturalization or citizenship or the registry of aliens beyond the fees and moneys authorized by law, shall be fined not more than \$5,000 or imprisoned not more than five (5) years, or both"

3. At the time of defendant-appellant's arrest it was shown that defendant-appellant repeatedly requested that she be permitted to contact an attorney of her choice. Testimony in this action shows that she requested time to call her attorney at her home after she was advised that she was under arrest and several times prior to and during her questioning. The prosecution admitted that no vocal advice with respect to her rights was given to her, but instead,

was given a printed card to read and sign after she was asked whether she could read English.

4. At the trial, at which the Court sat as the Court and the jury, it was shown that defendant-appellant did nothing but keep the \$800.00 and instructed the alien to sign the appropriate Immigration and Naturalization forms used to apply for a change of alien status.

5. The trial court dwelt at length upon whether or not a proceeding, as contemplated by Section 1422, Title 18, United States Code, was ever commenced. In the trial Court's opinion of June 10, 1977, it is stated that in the opinion of the trial court, "the proceedings relating to registry of Pirani [the alien above referred to] commenced when the defendant obtained the forms and had Mrs. Pirani sign them." This finding was subsequent to the Court's statement that "The proceedings consist of filling out the forms... which are then submitted to the New York State Unemployment Agency, then to the United States Department of Labor, and upon the certification by both agencies, then submitted to the Immigration Service for the change of status."

6. The Court then found the defendant-appellant guilty beyond a reasonable doubt and, on July 18, 1977, sentenced her to two (2) years probation and a fine of \$2,500.00.

7. This appeal is from the judgment of the trial court in that it erred in its application of the law with respect to the denial of due process of law to defendant-appellant and its application of the law with respect to the commencement of proceedings within the meaning of Section 1422 Title 18, United States Code.

POINT I

THE DEFENDANT-APPELLANT WAS DENIED DUE PROCESS
OF LAW GUARANTEED UNDER THE FIFTH AMENDMENT OF
THE UNITED STATES CONSITUTION.

If this Court will refer to the transcript of the hearing held on April 1, 1977, which was conducted with respect to this very question it will readily see that the nature of the arrest and the government's advice as to the nature of the arrest was questionable at best. At page 8, commencing with line 18, it is apparent that the arresting officer recited to the defendant-appellant that the arrest was for a violation of Title 18, United States Code Section 201. Aside from the surprise of the Court that in response to the question "what is this all about?", the arresting officer cited a "section number" (as if the defendant-appellant were expected to keep a copy of Title 18 United States Code readily available for reference), the advice with respect to the crime charged was totally erroneous.

At page 24 the government's testimony admits that in advising the defendant-appellant of her rights, all that was done was to hand her a form to read without any vocalization to her about her rights. The arresting officer presumed that the defendant-appellant fully understood the import of reading a form of printed material and has called that the proper advice of a defendant's rights under the

United States Constitution.

On page 28, at line 21, the government states that when the defendant-appellant was introduced to the interrogating agent, Mr. Frank Wohl, the government's witness in the hearing referred to herein, she stated "will I be permitted to call an attorney?" On page 30, line 20 the government states that the defendant-appellant was told that the government was "going to be straight with her if she was going to be straight with" the government and again on page 31, line 11, "the purpose of this meeting was to give her an opportunity to help herself by cooperating with the government". She was also advised that her cooperation or lack of it "would be brought to the attention of the sentencing judge", implying to her that she was already convicted of the charge and instilling in her the fear that is sought by the Fifth Amendment of the United States Constitution to obviate. Once the desired effect had been achieved, the government went full throttle into the questioning of the defendant. The damage having been done, the government then let the defendant-appellant do as she wished in order to contact and confer with as many attorneys she wanted to, because they had already exacted from her the incriminating testimony that was later used to convict her (Pages 34 and 35).

But that was not yet enough! After arrangements

were made to have attorneys present to represent her, she was further processed, through "pretrial services" (page 36 line 12) for the purpose of conducting further "interviews" (page 37, line 4).

The government further admits at page 37 line 22, that it is "normal procedure to bring a defendant to the United States Attorney's office" for questioning. And at page 40 line 11, the government concedes that in response to defendant-appellant's request to contact an attorney, she was read the "Miranda warnings."

At page 46 line 16, it is further apparent, as the government concedes, that subsequent to time defendant-appellant's attorneys had made contact with her, there was further questioning of defendant-appellant and that the government did not stop questioning defendant-appellant after speaking with her attorney (page 47 lines 12-25, page 48, lines 1-6).

The testimony of defendant-appellant's husband, at page 51, line 16, indicated that she attempted to telephone an attorney upon her arrest but was prevented from or cajoled into refraining from doing so at that time. This testimony indicates that defendant-appellant was fingerprinted and photographed twice (page 53 line 24). At page 62 line 11, defendant-appellant stated that she attempted to telephone an attorney but was prevented from doing so by the govern-

ment's agent who told her that she would, of course, be able to call an attorney - but after some questioning. She also related the events surrounding her being handed a piece of paper to sign, rather than being told anything orally by the arresting officer and again at page 64, line 21, made the request to contact an attorney, but was again told she could do so - after questioning "by the Assistant United States Attorney, Mr. Frank Wohl". Repeated requests were made by defendant-appellant to contact an attorney (page 65 line 22, page 66 line 7, page 68, line 10, line 17). If this Court will refer to the transcript of the trial at page 93 line 22, the Government's witness, agent Mullaney corroborates this statement by defendant-appellant. Finally she was permitted to do so, after her Constitutional rights had been stripped from her. But the government was relentless! After contacting an attorney, the United States Attorney resumed his questioning, as if to squeeze the last bit of information from defendant-appellant before she even had an opportunity to confer with counsel. Defendant-appellant continued to request a conference with an attorney before anything continued, but her requests were continually ignored (page 70, line 5, line 23). Of significance is the cross-examination of defendant-appellant at page 74 line 9 when Mr. Duhamel, the Assistant United States Attorney, asked her "was your request more specifically, will I be

able to talk to an attorney?" This question can be taken in no other reasonable context than to lend acceptance to the procedure that ensued. Tacitly, the government concedes that it is acceptable to question a suspect if the questioning agent once becomes secure that such suspect will only want to consult an attorney in the future and not at the time of questioning. As long as the suspect asks "will I be able" and not "am I now able" to call an attorney, the government justifies its questioning.

The case of MIRANDA v. ARIZONA 384 U.S. 436 (1966) sets down specific requirements with respect to circumstances that are on all fours with the case at bar:

"...[U]nless other fully effective means are devised to inform accused persons of their right of silence and to assure a continuous opportunity to exercise it, the following measures are required. Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney.... The defendant may waive eff. ctuation of these rights provided the waiver is made voluntarily, knowingly and intelligently. If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning..." Miranda v. Arizona, 384 U.S. 436 (1966). (Emphasis supplied)

The Court continues with very cogent observations which go to the very question here:

"The circumstances surrounding in-custody interrogation can operate very quickly to overbear the will of one merely made aware of his privilege

by his interrogators. Therefore, the right to have counsel present at the interrogation is indispensable to the protection of the Fifth Amendment privilege under the system we delineate today." Miranda v. Arizona, 384 U.S. 436 (1966) (Emphasis supplied).

What has the government done in this case? It has violated every standard that the Supreme Court has established for the preservation of an accused's rights to counsel. Despite the fact that there have been some retreats from the full reach of the Miranda doctrine, it is clear that the right to counsel has remained inviolate during interrogation. Cases dealing with the right to counsel date back to the Scottsboro case (Powell v. Alabama, 287 U.S. 45(1938)). The right to counsel is the mainstay of the adversarial system of criminal justice. It is a central feature of our constitutional law and a common feature of our popular culture. The role of the lawyer as the champion of the accused is deeply rooted in our law and culture. Mr. Justice Douglas in Argersinger v. Hamlin 407 U.S. 25 (1972) stated that "The assistance of counsel is often a requisite to the very existence of a fair trial...." Although Argersinger involved the absence of an attorney to represent the accused at his trial, the underlying premise holds true and was based upon the Miranda standards. In the Scottsboro case (Powell v. Alabama, supra) the Court stated that the defendant "requires the guiding hand of counsel at every step

in the proceedings against him" and that statement has served as the basis for requiring the right to counsel from the very moment of arrest and interrogation through the final automatic appeals from a conviction.

Prior to Miranda, the Courts have dealt with aspects of this question - suspects whose repeated requests for counsel had been denied, whose lawyers had been prevented from seeing their clients during interrogation, defendants who were interrogated without the presence of counsel after they had already been indicted and the formal proceedings against them had already begun. Miranda resolved all doubts! It dealt with the problem systematically, and concluded that if the Fifth Amendment privilege against self incrimination was to have any meaning, the suspect's Sixth Amendment right to counsel had to be applicable to law enforcement interrogation. A key factor in the Court's decision in Miranda was supplied by a series of police manuals which described various psychological ploys, such as the "good-guy, bad-guy" routine, used as interrogation methods designed to win the suspect's confidence and break down his psychological will to resist interrogation.

In the case at bar, the government told the defendant-appellant, in substance, "we'll help you if you'll help us." She was somewhat cajoled into submitting to some interrogation, but nevertheless persisted in her requests to

talk to an attorney. After her conversation, with an attorney, the interrogation continued despite her contact with an attorney. The government has flaunted the rules imposed upon it. The government arm of law enforcement, apparently anguishing since Miranda, that the Miranda decision has "handcuffed" it in effective law enforcement, fell prey to the historically continuing failure to abide by Miranda's requirements. This is not unheard of, since some studies showed that police and law enforcement agencies continued not to give Miranda warnings. See Modern Criminal Procedure, Livingston Hall, Yale Kamisar, Wayne R. LeFave and Jerold H. Israel, pp. 552-55, West Publishing Co., (1969).

The actions of the government exhibit just such a flagrant disregard for the defendant-appellant's rights. Her right to counsel at every stage of the proceedings and her right to remain silent was abridged by the government. The government has taken on the mantle of the Holy Inquisition and the Court of Star Chamber, where the right to remain silent was barbarically absent. It has exercised the arbitrary governmental power that was stemmed by the institution of the right to be free from self incrimination which has become enshrined in our American heritage. "The American system of criminal prosecution is... accusatorial, not inquisitorial, and the Fifth Amendment privilege is its

essential mainstay.... Governments, state and federal, are thus constitutionally compelled to establish guilt by evidence independently and freely secured, and may not by coercion prove a charge against an accused out of his own mouth" Malloy v. Hogan, 378 U.S. 1 (1964). By refusing to permit defendant-appellant to contact counsel of her own choice and by continuing interrogation after her requests for counsel became evident, the government did exactly what it has been sanctioned against doing.

The trial court erred in proceeding to trial in this case because defendant-appellant was not afforded her constitutional rights in accordance with the standards set down in Miranda v. Arizona, 384 U.S. 436 (1966).

Defendant-appellant was therefore denied due process of law guaranteed under the Fifth Amendment of the United States Constitution.

POINT II

THE COURT BELOW ERRED IN ITS FINDINGS
THAT A PROCEEDING WAS PENDING WITHIN
THE MEANING OF SECTION 1422 TITLE 18 USC

The question of the application of the Section under which defendant-appellant was charged was a major portion of the argument fostered on defendant-appellant's behalf to the trial Court. Examination of Investigator Francis J. Johnson, an employee of the Immigration and Naturalization Service for some 26 years, reveals that the document similar to which the alien in this case completed does not reach the Immigration and Naturalization Service until after the application itself is completed by the alien, is further completed by a prospective employer of the alien, is then forwarded to the State Department of Labor in the alien's particular state of prospective employment for a statement with regard to the employment opportunities, is then forwarded by the state department of labor to the United States Department of Labor to be completed by that Department in the form of a labor certification, is then returned to the alien and then, at the pleasure of the alien, submitted to the Immigration and Naturalization Service. (see transcript of trial, page 6 lines 19 through 25, page 7 lines 1 through 16, page 9 line 14). The specific language of the investigator at the trial was that after the labor certification

was issued, the forms "are submitted to the United States Immigration and Naturalization service in connection with a proceeding to adjust status to that of a permanent resident" (page 7 lines 14-16). Further evidence elicited from the government indicated that no application from the alien in the case was found to be on file and that in fact, no application or file, for that matter had been located for the alien involved and that further, no proceedings before the Immigration and Naturalization Service exist prior to the submission of the application by the alien to the Service. (page 10 lines 6-10).

The issue of the commencement of proceedings within the purview of the statute was also dealt with at length at the trial. If this Court will refer to page 97 of trial transcript, commencing at line 14, it will see the substance of the claim of the defense with respect to Section 1422 Title 18 USC, and the very essential element of the crime is that the actions of an accused occur "in proceedings relating to naturalization or citizenship...." (Section 1422 Title 18 USC). (Emphasis supplied.)

Of special note is the observation of the trial Court of the obvious untruth that proceedings are pending as soon as an alien overstays his or her visa or entry permit, simply because such an alien is violating the law. The further observation of the trial court is that the inclusion

in the statute of the technical word "proceeding" makes the existence of a proceeding an indispensable element of the crime. The trial court at page 105 line 23 states "why put in the technical word 'proceeding' if the scope of this section is to encompass a defendant who has done what the defendant has done here?"

And on page 108 at line 20, the trial court states to the prosecution that "of all the cases you cite there have been proceedings pending actual proceedings pending."

Then follows a colloquy between the trial Court and the prosecution which, although properly dealt with by the trial court at the time, appears to have insidiously crept into the ultimate basis for the trial Court's finding the defendant-appellant guilty beyond a reasonable doubt. The prosecution attempts to convince the trial court to convict her for fear that, if the Court acquits, the State, if the acquittal is on the basis that no federal crime has been committed, may elect not to prosecute and the defendant-appellant will therefore go unpunished. It is respectfully submitted that this attitude of the prosecution is as reprehensible as a bereaved victim whose attacker cannot be proven guilty who takes the law into his own hands to take revenge by the equally heinous crime of assault upon his attacker. The trial Court seemed to be equally appalled when it said, at page 109, lines 3-6, "That would not

persuade me. If the defendant is not guilty of committing a crime here, I am not going to say I am going to convict you anyhow because the state won't prosecute you."

Suprisingly on June 10, 1977 the trial Court rendered a decision finding the defendant guilty, beyond a reasonable doubt of violating Section 1422 Title 18 USC. In dealing with the question of the commencement of proceedings relating to the registry of the alien, the Court found that the proceedings

"commenced when the defendant obtained forms and had Mrs. Pirani sign them." (Page 2, Decision of METZNER, D.J., June 10, 1977).

This was an obvious about face from the trial court's apparently inexorable position at the trial level when it said at page 105 line 23, et seq.:

"Why put in the technical word 'proceeding' if the scope of this section is to encompass a defendant who has done what the defendant has done here?"

And again where the Court notes on page 108 at line 20, speaking to the prosecution:

"Of all the cases you cite there have been proceedings pending actual proceedings pending,"

From the conviction that followed, it appears without qualification that the Court intended to convict on whatever premise it could and then went out of its way to make sure it decided that certain acts of the defendant-not the Immigration and Naturalization Service or other govern-

mental agency or employee for that matter constituted the commencement of a proceeding. Once it arbitrarily set the scene with the manufactured commencement of a proceeding, it was easy to then convict upon the ground that defendant committed the acts she did "in a proceeding". It tailored its facts to make sure the theory fit within them.

It is respectfully submitted that just as it was considered to be absurd that proceedings are considered to have commenced for every alien that walked the streets after overstaying a visa or entry permit, it is equally absurd that once a private citizen obtains forms from the Immigration and Naturalization Service to be signed by aliens anticipating application to change registry or status, a proceeding has been commenced.

Can it be reasonably argued that an attorney who may have an immigration practice who secures an abundance of forms from the Immigration and Naturalization Service and has prospective clients execute them has commenced proceedings at the Immigration and Naturalization Service before that agency even knows of those clients' existence? It is conceivable that a prospective client who executes the forms may experience a change of heart and return to his or her foreign homeland. In such a case, is it reasonable to find, as a matter of law, as the trial Court did, that a proceeding has commenced with the Immigration and Naturalization

Service? If so, when the alien returns to his or her country, has the proceeding been terminated? If so the Immigration and Naturalization Service is sitting in such a "proceeding" oblivious to its commencement and its termination.

This is absurd and was an obvious attempt to overreach the bounds of reason and juggle the facts to fit the theory of the alleged crime.

The defendant-appellant was not an attorney but an acknowledged layman who picked up some forms from the Immigration and Naturalization Service to be executed. In her initial attempts to assist Pirani, she had Pirani execute them. The matter stopped there. It is unreasonable to hold as a matter of law that proceedings before the Immigration and Naturalization Service commenced with Pirani's signature on the forms.

This is dictated by common sense and reason. At that point Pirani could just as well have decided to abandon her hopes of permanent residence and return to her homeland. It is ludicrous to presume a proceeding had been commenced and was pending while Pirani was on her way home. What would have happened if Pirani had died after executing the forms and before they were processed to a prospective employer? The Immigration and Naturalization Service would never have known to close a proceeding that the trial Court

has said was commenced. This Court must hold as a matter of law, that a proceeding was never, in fact, commenced and must reverse the trial Court's conviction.

What do the traditional statutes and cases interpreting them, say about the commencement of proceeding?

All of the cases which are pertinent to this question state that a proceeding or action is commenced by the submission of the appropriate documents to the Court or agency in which that proceeding is to be held. Where, in an action, for example, the action is deemed commenced by the filing of a complaint, its commencement is accomplished by the filing of that complaint with the tribunal in which the proceeding is to be held. 1 C.J.S. page 1404, Actions, Section 130. Presumptions and Evidence as to Commencement.

The manner of commencing special proceedings is generally regulated by statutes, under some of which the proceeding is commenced by the presentation of a petition. Where a notice commences the proceeding, it is deemed commenced not from its date but from the time the notice is returned to, and filed in, the office of the tribunal housing the proceeding. 1 C.J.S. page 1403, Actions, Section 129d, Special or Summary Proceedings.

It is important to note that the Immigration and Naturalization Service does not issue any process and a proceeding before the Immigration and Naturalization Service

is not one that is commenced by the issuance by that agency of any type of demand or writ. The mechanics of the Immigration and Naturalization Service begin to work when an application is submitted to it, because otherwise there could be no knowledge by that agency that any action or approval by it is requested. The Court below acknowledged that no cases with respect to the commencement of a proceeding to determine alien status exist. This Court must use common sense and reason to determine when the Immigration and Naturalization Service has a proceeding before it. An alien who overstays a visa permit does not commence a proceeding before the Immigration and Naturalization Service simply because the Immigration and Naturalization Service has nothing before it with respect to these aliens. The step of obtaining blank forms does not commence such a proceeding because, again, no particular application has been submitted to it at that point. A host of requirements must be fulfilled by an alien before his or her application is submitted to the Immigration and Naturalization Service and it is conceivable that the State and/or Federal Agencies may see fit not to affix their labor certifications, in which case it will be an idle act to submit such an application to the Immigration and Naturalization Service. It is obvious that the only time a proceeding for alien registry or change of alien status is commenced is when the Immigration

and Naturalization Service has something to act upon and that is a fully completed and state and federal labor department certified application.

This Court must take judicial notice of the instructions furnished prospective applicants by the Immigration and Naturalization Service, its own Form No. I-485. The first step in making application is execution by the alien. Then a filing fee is stated to be paid and in some cases, possibly returned if the application lacks proper execution or labor certification. Fingerprints are required. Affidavits are required. Other items are required. The alien is finally warned "If you have not attached the documents called for by the instructions, this application will be returned to you."

This caveat implies two important things:

1. The alien submits the application, so that it is up to the alien, immediately prior to submitting his or her application to the Immigration and Naturalization Service whether or not to make application at all.

2. If the application submitted by the alien is not accompanied by the required attachments, it will not be processed, but will be returned. Can it reasonably be presumed that even though an improperly completed application is returned to the alien, a proceeding has been commenced? Of course not !

An administrative body may generally conduct its proceedings in such manner as will best conduce to the proper dispatch of its business and to the ends of justice. It is generally permitted a wide discretion and latitude in procedural details and ordinarily may establish its own rules and regulations as to practice and procedure, although it must conform to standards of fairness and reasonableness. 73 C.J.S. page 435 Section 114 In General. The institution of proceedings before an administrative agency is usually governed by the enabling act. An administrative agency is required to act usually upon the submission to it of a proper application and it thereafter rests in the judgment and discretion of the administrative body whether or not it shall act. 73 C.J.S. page 436-7, Section 117 Institution of Proceedings. In this matter, the Immigration and Naturalization Service has set down its requirements prior to acting upon the application of an alien. But such an application must be first submitted to the Immigration and Naturalization Service before it can even take any steps with respect to the alien. Before its acceptance of the application after submission of the application, it can still decide whether or not to take cognizance of the matter. It is even unreasonable to assume a proceeding has commenced upon the submission of the application, if in the last analysis the application is returned to the alien as unacceptable. Think

of the burden the trial court has placed upon the Immigration and Naturalization Service by deciding as a matter of law that its proceeding has commenced when an alien, in the quiet of his or her own place of abode, sits down and signs an application and prepares it for submission to a prospective employer, with the expectation of submitting to the State and Federal Department of Labor and then after a few weeks receives the application appropriately certified. Think of all of the proceedings the Trial Court has decided have been commenced, while the Immigration and Naturalization Service knows nothing of who signs the applications, who is going to employ the prospective resident alien, and so on down the line. Think of all of these proceedings having been commenced with the companion possibility of these very same aliens returning to their homelands, perhaps deciding against submitting their applications or perhaps even dying before receiving the application properly certified. It is as absurd as the existence of proceedings where illegal aliens walk the streets.

The Court below erred in its finding that a proceeding was pending when Pirani executed the Immigration and Naturalization Service forms.

The conviction should be reversed on the merits and this Court should find that defendant-appellant is not guilty as a matter of law on the ground that no federal crime

was committed within the meaning of Section 1422 Title 18,
USC.

CONCLUSION

Defendant-appellant was denied her constitutional rights under the Fifth Amendment of the United States Constitution and she was not guilty of the commission of the crime for which she was indicted under Section 1422 Title 18 USC.

RECEIVED
JAN 4 1973
FBI - NEW YORK
100-104112

